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SERVICE DATE - JULY 23, 2004

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-290 (Sub-No. 251X)

**Norfolk Southern Railway Company – Abandonment Exemption –
in Chowan County, NC**

STB Docket No. AB-866X

**North Carolina & Virginia Railroad Company, Inc.,
The Chesapeake and Albemarle Division – Discontinuance of Service Exemption –
in Chowan County, NC**

BACKGROUND

In this proceeding, Norfolk Southern Railway Company (NSR) and the North Carolina & Virginia Railway Company, Inc., The Chesapeake and Albemarle Division (NVCA) (jointly, applicants) filed a notice of exemption under 49 CFR 1152 for NSR to abandon and NVCA to discontinue service under a lease from NSR over a line of railroad in Chowan County, North Carolina. The rail line proposed for abandonment extends 0.33 of a mile from approximately milepost NS-73.67 to milepost NS-74.00 in Edenton, North Carolina. A map depicting the rail line in relationship to the area served is appended to the report. If the notice becomes effective, NSR will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

Applicants state that no traffic has originated, terminated or moved overhead on the line for at least two years. The line is the end segment of a line of railroad between Suffolk, Virginia and Edenton, North Carolina. Applicants state that the right-of-way is being sold to Dominion Resources so that it can obtain better access to its electric transmission facilities in the area.

According to the applicants, the land use along the right-of-way is 40 percent undeveloped, 40 percent developed, and 20 percent over a watercourse.

ENVIRONMENTAL REVIEW

The applicants submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. The applicants

served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules [49 CFR 1105.7(b)]. We have reviewed and investigated the record in this proceeding.

Applicants state that the line is located within one of the 22 coastal counties of North Carolina. The North Carolina Department of Environment and Natural Resources, Division of Coastal Management submitted oral comments to the applicants indicating that as long as no dredge and fill activities would be conducted, no state water quality permits would be required. NSR states that it does not intend to appreciably remove or alter the contour of the roadbed, undertake significant in-stream work, or dredge and/or fill any materials in connection with the proposed abandonment.

According to applicants, eight state listed and/or Federally listed threatened or endangered species or species of concern may occur in the county. These include the Rafinesque's Big-eared Bat (*Corynorhinus rafinesquii*), the Southeastern Myotis (*Myotis austroriparius*), the Bald Eagle (*Haliaeetus leucocephalus*), the Timber Rattlesnake (*Crotalus horridus*), the Alewife Floater (*Anodonta implicata*), the Eastern Lampmussel (*Lampsilis radiata radiata*), the Tidewater Mucket (*Leptodea ochracea*), and the Eastern Pondmussel (*Ligumia nasuta*). Accordingly, we will recommend conditions requiring NSR to consult with the U.S. Fish and Wildlife Service regarding Federally listed threatened and endangered species and the North Carolina Department of Environment and Natural Resources regarding state listed threatened and endangered species prior to beginning salvage activities.

The U.S. Army Corps of Engineers (Corps) has submitted oral comments to the applicants requesting that applicants submit a letter detailing salvage activities prior to beginning salvage. Based on the Corps' comments, we will recommend a condition requiring NSR to consult with the Corps prior to beginning salvage activities.

HISTORIC REVIEW

The applicants submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)]. The applicants served the report on the North Carolina Division of Archives and History (State Historic Preservation Officer or SHPO) pursuant to 49 CFR 1105.8(c). The SHPO has not completed its review of the proposed abandonment and discontinuance of service. Pending completion of the SHPO's review, we will recommend a condition to ensure compliance with the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

CONDITIONS

We recommend that the following environmental conditions be placed on any decision granting abandonment and discontinuance authority:

1. **Prior to beginning any salvage activities, Norfolk Southern Railway Company shall consult with the U.S. Fish and Wildlife Service regarding Federally listed threatened and endangered species which may occur in the vicinity of the line proposed for abandonment.**
2. **Prior to beginning any salvage activities, Norfolk Southern Railway Company shall consult with the North Carolina Department of Environment and Natural Resources regarding state listed threatened and endangered species which may occur in the vicinity of the line proposed for abandonment.**
3. **Prior to beginning any salvage activities Norfolk Southern Railway Company shall consult with the U.S. Army Corps of Engineers regarding the details of its salvage activities.**
4. **Norfolk Southern Railway Company shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.**

CONCLUSIONS

Based on the information provided from all sources to date, we conclude that, as currently proposed, and if the recommended conditions are imposed, abandonment of and discontinuance of service over the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice. According to the applicants, the sale of the right-of-way to Dominion Resources, which would benefit the public through more efficient electric power transmission service, would preclude any other potential public use.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact the Office of Public Services directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this environmental assessment, you should send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Rini Ghosh, who prepared this environmental assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-290 (Sub-No. 251X) in all correspondence, including e-filings addressed to the Board.** If you have questions regarding this environmental assessment, you should contact Rini Ghosh, the environmental contact for this case by phone at (202) 565-1539, fax at (202) 565-9000, or e-mail at ghoshr@stb.dot.gov.

Date made available to the public: July 23, 2004

Comment due date: August 9, 2004.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment

